

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DAVID C. HOWARD,	:	NO. 1:13-CV-00295
	:	
Plaintiff,	:	
	:	
vs.	:	ORDER
	:	
COMMISSIONER OF SOCIAL	:	
SECURITY, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation (doc. 25), to which there were no objections. The Magistrate Judge reviewed the record and determined that Defendant Commissioner's motion to dismiss the Complaint (doc. 18) based on Plaintiff's failure to exhaust his administrative remedies should be denied (doc. 25). The Magistrate Judge found Plaintiff has alleged facts, which the evidence before the Court does not refute, to show that his due process rights were violated in relation to the processing of his claim for benefits (Id.). The Magistrate Judge further found that the Complaint should be dismissed as to individual Defendant Phyllis Smith, for failure to state a claim, and that Plaintiff's motions to stay this matter (docs. 20, 21), should be denied.

Proper Notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would

waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, the Court finds the Magistrate Judge's Report and Recommendation thorough, well-reasoned, and correct. Accordingly, the Court hereby ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation in all respects (doc. 25), DISMISSES the Complaint against Defendant Smith pursuant to Fed. R. Civ. P. 12(b)(6), DENIES Defendant's Motion to Dismiss (doc. 18), and DENIES Plaintiff's motions to stay (docs. 20, 21).

SO ORDERED.

DATED: August 12, 2014 s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge